IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

2012 JUL 16 PH 1: 48

Plaintiff,

Docket No.: 12C279

JURY DEMAND (12)

Defendant.

COMPLAINT

Comes now the Plaintiff, by and through counsel, and would respectfully submit to the Court the following Complaint:

- 1. The Plaintiff Shannon Russelburg is a resident of the State of Tennessee, residing in Davidson County, Tennessee.
- 2. The Defendant Green Hills Chiropractic Clinic, LLC is a domestic limited liability company who is authorized to be and doing business in the State of Tennessee. The Defendant's principal place of business is at 2303 Crestmoor Road, Nashville, Tennessee 37215-2003. They can be served through their registered agent for service of process, James H. Porter, suite 2500, 511 Union Street, Nashville, TN 37219-1733
- 3. Jurisdiction in this matter is proper because the events giving rise to this matter took place in Davidson County, Tennessee.

FACTUAL BACKGROUND

- 4. The Plaintiff was hired by the Defendant on or about October 19, 2009 as a front office employee.
 - 5. The Plaintiff suffers from Crohn's disease and notified the Defendant of



 this condition at the time of her hire.

- 6. In July 2011, the Plaintiff suffered from an increase in symptoms of her condition, which resulted in her need for surgical intervention.
- 7. In July 2011, the Defendant requested that the Plaintiff attend a conference which required her to travel out of town. Due to her increased symptoms and the medication that she was taking to control the condition, her physician restricted her from travel.
- 8. The Plaintiff requested the reasonable accommodation of no traveling per her physician's recommendation. Although the accommodation was granted, the Plaintiff was subsequently subjected to discrimination and disparaging treatment by the Defendant.
- 9. In August of 2011, the Plaintiff underwent surgery for her Crohn's disease in an attempt to control her symptoms. She requested the reasonable accommodation of unpaid time off work to recover from this surgery.
- 10. The Plaintiff's physician recommended that she be off work to recover until October 10, 2011.
 - 11. Plaintiff's request was granted.
- 12. On or about October 5, 2011, the Plaintiff contacted the Defendant and advised she was released to return to work, without any limitations. She was advised to report to work on October 10, 2011.
- 13. On or about October 10, 2011, the Plaintiff reported to work and was ready, willing and able to work and to perform her job duties without limitations.

14. On or about October 10, 2011, the Defendant terminated the Plaintiff's employment due to her disability. The Plaintiff's separation notice specifically states "the job is too stressful. It affects her health and ability to do job tasks."

DISABILITY DISCRIMINATION

- 15. Plaintiff re-alleges and incorporates herein the allegations contained in paragraphs 1 14 above.
- 16. At all times pertinent to this action, the Plaintiff was an employee of the Defendant with a "disability" within the meaning of the Tennessee Disability Act, Tennessee Code Annotated § 8-50-103.
- 17. At all times pertinent to this action, the Defendant was an "employer" within the meaning of the Tennessee Disability Act, Tennessee Code Annotated § 8-50-103.
- 18. The Plaintiff asserts from July 2011 through October 5, 2011, the Plaintiff was operating under a physical impairment that substantially limited one or more major life activities, which was apparent to and perceived by the Defendants.
- Additionally, the Plaintiff informed the Defendant of her limitations and disabilities.
 - 20. At the time of her termination, the Plaintiff suffered from Crohn's disease.
- 21. At the time of her termination, Plaintiff qualified as an individual with a disability consistent with the Tennessee Disability Act.
- 22. Plaintiff also contends that during her employment and until her termination, she suffered from substantial limitations of several major bodily functions including but not limited to functions of the autoimmune system and digestive system.

- 23. At the time of her termination, Plaintiff was not under any restrictions by her physician for her condition.
- 24. During her employment, management made negative comments about Plaintiff's health problems and her limitations.
- 25. At the time of her termination Plaintiff was able to perform all essential functions of her job.
- 26. The Defendant perceived or regarded the Plaintiff's medical condition as a handicap, consistent with the Tennessee Disability Act, Tennessee Code Annotated § 8-50-103.
- 27. During this applicable time period, the Plaintiff 1) suffered from one or more physical impairment that substantially limited one or more of the Plaintiff's major life activities; 2) the Plaintiff was qualified and able to perform the required job despite the handicap or disability; and 3) the Defendant knowingly discriminated against the Plaintiff because of her disability.
- 28. The Defendant's termination of the Plaintiff constituted an adverse employment action.
 - 29. The Plaintiff avers the Defendant's reason for termination was illegal.
- 30. The Defendant's termination of the Plaintiff constituted a violation of the Tennessee Disability Act, Tenn. Code Ann. § 8-50-103 in conjunction with the Tennessee Human Rights Act.

- 31. The Defendant discriminated against the Plaintiff and treated her poorly from the time the Defendants knew of her disabling injuries until the date of her discharge.
- 32. At all relevant dates and times as forth herein, the Defendant is vicariously liable for the actions and inappropriate conduct of its employees, agents and/or representatives because: (a) the Defendant did not exercise reasonable care to promptly correct and prevent the handicap and disability discriminating behavior; (b) the Defendant did not properly supervise and train the Plaintiff's supervisors regarding appropriate behavior towards employees with injuries or disabilities; (c) the Defendant did not properly train the Plaintiff's supervisors regarding the Defendants' policies towards a workplace free of handicap and disability discrimination; (d) the Defendant did not have a viable and reasonable procedure and policy in effect to encourage and promote employees to report handicap and disability discrimination occurring within the Defendant's workplace; and (e) the Defendant did not have a viable and reasonable procedure and policy in effect to provide reasonable accommodation to its employees with disabilities.
- 33. The Plaintiff's managers and supervisors discriminated against Plaintiff as a result of her physical disability and/or their perception of her physical disability by terminating the Plaintiff, even though she was able to perform all her job duties. The management teams' actions show that the Defendant had not properly trained the managers and supervisors or provided proper instruction regarding the handling and processing of employees with disabilities, to prevent discrimination against the Plaintiff for her disability.

- 34. At said relevant dates and times as set forth herein:
 - a) the Plaintiff was a qualified individual with a disability that substantially limited a major life activity and/or the employer treated and perceived the Plaintiff as if the Plaintiff's impairment substantially limited a major life activity;
 - b) the Plaintiff was able to perform the essential functions of her job with or without reasonable accommodation; and
 - c) the Plaintiff suffered a tangible employment action in being discharged or terminated by the employer as a result of her disability.

APPLICABLE TO ALL COUNTS

- 35. As a result of the Defendant's culpable acts or omissions as set forth herein, the Plaintiff was improperly retaliated against and terminated by the Defendant and is entitled to compensation for past, present and future wages and benefits, incidental damages, compensation for emotional distress, humiliation, mental anguish, embarrassment, pain and suffering and other nonpecuniary losses.
- 36. Plaintiff further submits that the Defendant has acted: (a) intentionally, (b) maliciously, or (c) recklessly in terminating the Plaintiff and that the Plaintiff is entitled to an award of punitive damages.
- 37. Plaintiff has suffered direct pecuniary losses as a result of the Defendant's violations of the Tennessee Human Rights Act and common law.
- 38. Plaintiff will continue to suffer direct pecuniary losses as a result of the Defendant's culpable acts or omissions as set forth herein, the Defendant's violation of the Tennessee Human Rights Act and common law.
- 39. Plaintiff is entitled to compensation for incidental damages, attorney's fees, compensation for emotional distress, humiliation, mental anguish, embarrassment,

pain and suffering and other nonpecuniary loses.

WHEREFORE PLAINTIFF PRAYS:

- a) that service of process issue to Defendant as set forth in;
- b) the Plaintiff be awarded compensatory damages of \$150,000 or as amount to be determined by the jury;
- c) the Plaintiff be awarded punitive damages of \$150,000 or an amount to be determined by the jury;
- d) that the Court award the Plaintiff attorney's fees and costs incurred in prosecuting this action and such discretionary costs as provided under Tennessee law;
- e) that the Court award the Plaintiff such other, further, general and different relief to which she may be entitled; and
 - f) that a jury of twelve (12) be empanelled to try this action.

Respectfully submitted,

Nina Parsley [BPR No. 23818] Michael Ponce & Associates, PLLC

1000 Jackson Road, Suite 225 Goodlettsville, TN 37072

(615) 851-1776

nina@poncelaw.com

Attorney for the Plaintiff

CIRCUIT COURT SUMMONS			váshville, tennesseé	
•	STATE OF TENNESSEE DAVIDSON COUNTY O TH JUDICIAL DISTRICT 2012 JUL 16	1:50	First Alias Pluries	
SHANNON RUSSELBURG	RICHARO R. ROOK	IR, CLEAK	CIVIL ACTION JZCZ7	192
Plaintiff			Method of Service:	
	V		Davidson County Sheriff	900
Vs.			Out of County Sheriff	, f
GREEN HILLS CHIROPRACTIC (CLINIC, LLC		Secretary of State	•
Through Registered Agent: James H	.Porter	, 	Certifiëd Mail	
Suite 2500, 511 Union Street			Personal Service	
Nashville, TN 37219-1733			Commissioner of Insuran	ce
Defendant	<u> </u>	:	DI, w/a Ti	HEY
To the above named Defendant:			7,00,00	
You are summoned to appear and def Box 196303, Nashville, TN 37219-630 served upon you. You are further dir attorney at the address listed below. In case of your failure to defend this a demanded in the complaint.	 and your defense must be ected to file your defense wit ction by the above date, judg 	made within thir h the Clerk of the gment by default RICHA Circuit (ty (30) days from the date this Court and send a copy to th	s summons is e Plaintiff's
		By:	1/12	
			Deput Clerk	
ATTORNEY FOR PLAINTIFF	Michael Ponce and Associate	es	erande e d	
or	1000 Jackson Road, Ste. 225			
PLAINTIFF'S ADDRESS	Address Goodlettsville, TN 37072 (6			
TO THE SHERIFF:				
,	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1			
Please execute this summons ar	id make your return hereon as	provided by law.		
			ARD R. ROOKER t Court Clerk	
Received this summons for service this	day of	, 20		
		- 14	SHERIFF	
	ou have a disability and reques-5204	ire assistance, pl	ease contact	

RETURN ON PERSONAL SERVICE OF SUMMONS served this summons and complaint/petition on in the following manner: failed to serve this summons within 90 days after its issuance because Usmey N. Bordse COUNTY. NO LONGER CHARACTER CHARGE IS NOT TO BO FOUND IN COUNTY, NO LONGER CHARACTER AT LESTON MOREOUTH Shawn Dromgoole, SR. Sheriff/Process Server RETURN ON SERVICE OF SUMMONS BY MAIL I hereby certify and return, that on the _____ day of _____, 20 ___ I sent, postage prepaid by registered return receipt mail or certified return receipt mail, a certified copy of the summons and a copy of the compliant in Docket to the defendant, __ . On the 20 , I received the return receipt for said registered or certified mail, which had been signed receipt is attached to this original summons and both documents are being sent herewith to the Circuit Court Clerk for filing. SWORN TO AND SUBSCRIBED BEFORE ME ON THIS PLAINTIFF, PLAINTIFF'S ATTORNEY OR OTHER PERSON _____ DAY OF ______, 20_____. AUTHORIZED BY STATUTE TO SERVE PROCESS NOTARY PUBLIC or _____ DEPUTY CLERK MY COMMISSION EXPIRES: NOTICE TO THE DEFENDANT(S): Tennessee law provides a ten thousand dollar (\$10,000.00) debtor's equity interest ATTACH personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of RETURN the court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any RECEPT execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel. HERE (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized, (IF APPLICABLE) you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer. STATE OF TENNESSEE I, Richard R. Rooker, Clerk of the Circuit Court in the State and County aforesaid, do hereby certify this to be a true and correct copy of the original summons issued COUNTY OF DAVIDSON in this case. RICHARD R. ROOKER, CLERK (To be completed only if copy certification required.) Ву: _____ D.C.

			NASHVILLE, TENNESSEE
	STATE OF TENNESSEE D DAVIDSON COUNTY 20 TH JUDICIAL DISTRICT 2017 JUL 16 PM 1: 5	0 _	First Alias Pluries
SHANNON RUSSELBURG	RICHARD R. ROOKER, CLE	RX	CIVIL ACTION JZCZ792
701-1-2-100		.,,	
Plaintiff		,	Method of Service:
Vs.	•		Davidson County Sheriff
			Out of County Sheriff
GREEN HILLS CHIROPRACTIC			Secretary of State
Through Registered Agent: James I	A Porter		Certified Mail
Suite 2500, 511 Union Street			Personal Service
Nashville, TN 37219-1733			Commissioner of Insurance
Defendant			DI, W/G Ent HE
ox 196303, Nashville, TN 37219-63 rved upon you. You are further di torney at the address listed below. case of your failure to defend this	603, and your defense must be made virected to file your defense with the C	vi thin th in lierk of th	euit Court, 1 Public Square, Room 302 rty (30) days from the date this summo the Court and send a copy to the Plaintif will be rendered against you for the re
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CIRCUIT COURT SUMMONS	NASHVILLE, TENNESSEE
STATE OF TENNESSEE DAVIDSON COUNTY 20 TH JUDICIAL DISTRICT	NASHVILLE, TENNESSEE First Alias Phuries Phurie
	_ CIVIL ACTION
SHANNON RUSSELBURG	DOCKET NO. 126779
Plaintiff	Method of Service:
	☑ Davidson County Sheriff 🔫
Vs.	Out of County Sheriff
GREEN HILLS CHIROPRACTIC CLINIC, LLC	Secretary of State
Serve: Dr. Beth Barnett, Managing Partner	Certified Mail
2303 Crestmoor Road	Personal Service
Nashville, TN 37215	Commissioner of Insurance
Defendant	<u> </u>
To the above named Defendant:	W/C, INT
ISSUED: $Q Q 20/2$	iefault will be rendered against you for the relief UCHARD R. ROOKER Circuit Court Clerk Davidson County, Tennessee
_ <u>B</u>	by: O. M. Deputy Clerk
ATTORNEY FOR PLAINTIFF Michael Ponce and Associates	
or 1000 Jackson Road, Ste. 225	
PLAINTIFF'S ADDRESS Address Goodlettsville, TN 37072 (615) 851-177	
•	70
TO THE SHERIFF:	·
Please execute this summons and make your return hereon as provided by	y law.
	RICHARD R. ROOKER
•	Circuit Court Clerk
Received this summons for service this day of, 20	Circuit Court Clerk
	Circuit Court Clerk SHERIFF
Received this summons for service this day of, 20 If you have a disability and require assistant 862-5204.	Circuit Court Clerk SHERIFF

I hereby certify and	5 y	day of	9-18-12	, 20 , I:
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	•			On the day of
				certified mail, which had been signed
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EIRCUIT COURT SUMMONS		nashville, tennessee
•	STATE OF TENNESSEE DAVIDSON COUNTY 20 TH JUDICIAL DISTRICT	NASHVILLE, TENNESSEE First Alias Pluries CIVIL ACTION
SHANNON RUSSELBURG ·	•	CIVIL ACTION DOCKET NO. 136703
Plaintiff	•	Method of Service:
Vs.		Davidson County Sheriff Out of County Sheriff
GREEN HILLS CHIROPRACTION	CCLINIC, LLC	Secretary of State
Serve: Dr. Beth Barnett, Managin	g Partner	Certified Mail
23031 Crestmoor Road		Personal Service
Nashville, TN 37215 Defendant		Commissioner of Insurance
o the above named Defendant:		W/C, INT
ox 196303, Nashville, TN 37219-6 erved upon you. You are further of torney at the address listed below a case of your failure to defend this emanded in the complaint.	303, and your defense must be made lirected to file your defense with the	in the Circuit Court, 1 Public Square, Roo within thirty (30) days from the date this s Clerk of the Court and send a copy to the F by default will be rendered against you for RICHARD R. ROOKER Circuit Court Clerk Davidson County, Tennessee By: O. M. Deputy Clerk
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ox 196303, Nashville, TN 37219-6 erved upon you. You are further of ttorney at the address listed below a case of your failure to defend this emanded in the complaint. ISSUED: Q Q 202 ATTORNEY FOR PLAINTIFF or PLAINTIFF'S ADDRESS	303, and your defense must be made lirected to file your defense with the saction by the above date, judgment Michael Ponce and Associates	in the Circuit Court, 1 Public Square, Roo within thirty (30) days from the date this stolerk of the Court and send a copy to the F by default will be rendered against you for RICHARD R. ROOKER Circuit Court Clerk Davidson County, Tennessee By: Q. M. Deputy Clerk Deputy Clerk
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RETURN ON PERSONA	AL SERVICE OF SU					
I hereby certify and return	that on the	day of	9-18-12	,	20, I:	
I hereby certify and return	this summons and con	nplaint/petition on	SERVED G	reen H	7. LE	·····
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			Sheriff/Proc	ess Server		
RETURN ON SERVICE						•
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on County, Tenneysee .
Myloduny Deputy Clerk



IN THE SIXTH CIRCUIT	COURT FOR DAVIDSON C	COUNTY, TENNESSEEL C
	AT NASHVILLE	2012 DEC 17 AM 9:27
IN RE:))	" NOOKER TO
CASE MANAGEMENT & STATUS DOCKET CALL FOR CERTAIN CASES)))	C. Sources

ORDER

Pursuant to Local Rule 27.06(e), the following civil cases are set for a conference at the times noted below. Should you have a scheduling conflict, please contact the Special Master's office to reschedule as soon as possible but no later than two (2) business days before the conference. Contact information is located at the bottom of the last page of this order. All attorneys of record shall attend. Failure to participate in person may subject you to sanctions under T.R.C.P.\\$16.06. Attorneys from counties non-contiguous with Davidson County may participate by telephone so long as arrangements are made prior to the day of the conference. Do not submit a scheduling order in lieu of appearance. DO NOT CALL CHAMBERS FOR INFORMATION REGARDING THIS CONFERENCE.

Plaintiff's counsel is responsible for notifying the Special Master's office if the case is compromised and settled prior to the conference or if the defendant is not served with the summons. If the defendant has obtained counsel that not listed on the certificate of service, the plaintiff's counsel shall give notice of the scheduled conference.

FIFTH CIRCUIT COURT CASE MANAGEMENT & STATUS DOCKET CALL The conferences will be held in Suite 501, Historic Metropolitan Courthouse 1 Public Square, on February 12, 2013

09:30 a.m.	Dianne Austin v Dredge and Marine	12C-2620
09:45 a.m.	Deborah Whitlock v Jeri Gibson	12C-2639
10:00 a.m.	Angela Williams v Ashley Collins	12C-2646
10:15 a.m.	Insulation Solutions v Burtin Polymer	12C-2678
10:30 a.m.	Khary Ahmed v Jade Roberson	12C-2727
10:45 a.m.	Raymond Herpy v My Houng Pham	12C-2761
11:00a.m.	Jewell Holloway v Cheng Pan	12C-2764
11:15 a.m.	Shannon Russelburg v Green Hills Chiropractic	12C-2792

11:30 a.m.	Fadi Mallak v Darren Hern	12C-2833		
11:45 a.m.	Shelbie Duke v Aleisia Buck	12C-2847		
01:00 p.m.	Jack Copeland v ABL Management	12C-2871		
01:15 p.m.	Steve Spurrier v Mapco Express	12C-2887		
01:30 p.m.	Aaron Armstrong v Michael Wallace	12C-2893		
01:30 p.m.	Madlyn Floyd v A-Z DME, Inc.	12C-3209		
01:45 p.m.	Sam Sook Pak v Omer Durani	12C-2920		
01:45 p.m.	Durani Auto v Sam Pak	12C-3131		
01:45 p.m.	Sam Pak v Durani Auto	12C-3132		
02:00 p.m.	Rhonda Abdalla v Franklin Williams	12C-2965		
02:15 p.m.	Robert Preston v Jonathan Mace	12C-2998		
02:30 p.m.	Amy Thieman v Isaac Brown	12C-3010		
02:45 p.m.	Ester Blackard v Kroger	12C-3031		
IT IS SO ORDERED.				
Entered this the	day of, 201	2.		
	JUDGE THOMAS BROTHERS			

CERTIFICATE OF SERVICE

nereby certify a true and exact copy of the foregoing has been mailed, postage prepaid, to the
llowing attorneys and/or parties for their respective cases on this the day of
ecamber, 2012.
Cindi Smuop
Cyndi Snuggs, Deputy Clerk

Dianne Austin v Dredge and Marine
David Randolph Smith, Esq.
Richard M. Smith, Esq.
David A. Changas, Esq.

<u>Deborah Whitlock v Jeri Gibson</u> Chadwick W. Stanfill, Esq. Nathaniel K. Cherry, Esq.

Angela Williams v Ashley Collins Luvell L. Glanton, Esq. R. Kreis White, Esq.

Insulation Solutions y Burtin Polymer Alisha M. Toll, Esq. Barry L. Howard, Esq.

Khayr Ahmed v Jade Roberson Tim L. Bowden, Esq. Jamie Morrell, Esq.

Raymond Herpy v My Houng Pham Aaron Woodard, Esq. Joshua G. Offutt, Esq. James R. Embrey, Jr., Esq. Brenda Measells Dowdle, Esq.

Jewell Holloway v Cheng Pan Chadwick W. Stanfill, Esq. William G. McCaskill, Jr., Esq.

Shannon Russelburg v Green Hill Chiropractic Nina Parsley, Esq.

Fadi Mallak v Darren Hern Tim L. Bowden, Esq. Gary R. Wilkinson, Esq. Nathaniel K. Cherry, Esq.

Shelbie Duke v Aleisia Buck Blair Durham, Esq. Aaron Woodard, Esq. R. Kreis White, Esq.

Jack Copeland v ABL Management Jack L. Byrd, Esq.

Lauren L. Holloway, Esq.

Steve Spurrier v Mapco Express

John B. Stark, Esq. Nathaniel K. Cherry, Esq.

Aaron Armstrong v Michael Wallace

Stanley A. Davis, Esq. Jeffrey R. Kohl, Esq. David J. White, Jr., Esq.

Madlyn Floyd v A-Z DME, LLC

Renard R. Hirsh, Sr., Esq. Jeffrey R. Kohl, Esq. David J. White, Jr., Esq.

Sam Sook Pak v Omer Durani

James R. Omer, Jr., Esq. Dianne M. Schwartz, Esq.

Durani Auto v Sam Pak

Durani Auto Sales

Dianne M. Schwartz, Esq.

Cynthia D. Plymire, Esq.

Sam Pak v Durani Auto

Cynthia D. Plymire, Esq.

James R. Omer, Jr., Esq.

Durani Auto Sales

Rhonda Abdalla v Franklin Williams

Tim L. Bowden, Esq.

Bill Easterly, Esq.

Robert Preston v Jonathan Mace

Jeffery S. Roberts, Esq.

Gary M. Kellar, Esq.

Amy Thieman y Isaac Brown

James R. Omer, Jr., Esq.

R. Kreis White, Esq.



Ester Blackard v Kroger John W. Roberts, Esq. Michael H. Johnson, Esq.

e-mail; eynthiasnuggs@jis.nashville.org / phone: 615.880.2546



To request ADA accommodation, please contact 615-880-3309

IN THE CIRCUIT COURT FO	R DAVI NASHVI	Z 1 70. T
		Marion 11
SHANNON RUSSELBURG,)	
)	
Plaintiff,)	
)	* >0 _C -
V.)	Docket No.:12C2792
)	JURY DEMAND (12)
GREEN HILLS CHIROPRACTIC)	
CLINIC, LLC,)	
	j	
Defendant.	ý	

AMENDED COMPLAINT

Comes now the Plaintiff, by and through counsel, and would respectfully submit to the Court the following Complaint:

- The Plaintiff Shannon Russelburg is a resident of the State of Tennessee, 1. residing in Davidson County, Tennessee.
- 2. The Defendant Green Hills Chiropractic Clinic, LLC is a domestic limited liability company who is authorized to be and doing business in the State of Tennessee. The Defendant's principal place of business is at 2303 Crestmoor Road, Nashville, Tennessee 37215-2003. They can be served through their registered agent for service of process, James H. Porter, suite 2500, 511 Union Street, Nashville, TN 37219-1733
- 3. Jurisdiction in this matter is proper because the events giving rise to this matter took place in Davidson County, Tennessee.

FACTUAL BACKGROUND

- The Plaintiff was hired by the Defendant on or about October 19, 2009 as 4. a front office employee.
 - 5. The Plaintiff suffers from Crohn's disease and notified the Defendant of

this condition at the time of her hire.

- 6. In July 2011, the Plaintiff suffered from an increase in symptoms of her condition, which resulted in her need for surgical intervention.
- 7. In July 2011, the Defendant requested that the Plaintiff attend a conference which required her to travel out of town. Due to her increased symptoms and the medication that she was taking to control the condition, her physician restricted her from travel.
- 8. The Plaintiff requested the reasonable accommodation of no traveling per her physician's recommendation. Although the accommodation was granted, the Plaintiff was subsequently subjected to discrimination and disparaging treatment by the Defendant.
- 9. In August of 2011, the Plaintiff underwent surgery for her Crohn's disease in an attempt to control her symptoms. She requested the reasonable accommodation of unpaid time off work to recover from this surgery.
- 10. The Plaintiff's physician recommended that she be off work to recover until October 10, 2011.
 - 11. Plaintiff's request was granted.
- 12. On or about October 5, 2011, the Plaintiff contacted the Defendant and advised she was released to return to work, without any limitations. She was advised to report to work on October 10, 2011.
- 13. On or about October 10, 2011, the Plaintiff reported to work and was ready, willing and able to work and to perform her job duties without limitations.

- 14. On or about October 10, 2011, the Defendant terminated the Plaintiff's employment due to her disability. The Plaintiff's separation notice specifically states "the job is too stressful. It affects her health and ability to do job tasks."
- 15. The Plaintiff has exhausted her administrative remedies with the Equal Employment Opportunity Commission and has been issued a right to sue letter.

DISABILITY DISCRIMINATION

- 16. Plaintiff re-alleges and incorporates herein the allegations contained in paragraphs 1-15 above.
- 17. At all times pertinent to this action, the Plaintiff was an employee of the Defendant with a "disability" within the meaning of the Tennessee Disability Act, Tenn. Code Ann. § 8-50-103 and the Tennessee Human Rights Act and pursuant to Tenn. Code Ann. § 4-21-101 et seq. and the Americans with Disabilities Act Amendments Act, 42 U.S.C. § 12101 et seq.
- 18. At all times pertinent to this action, the Defendant was an "employer" within the meaning of the Tennessee Disability Act, Tenn. Code Ann. § 8-50-103 and the Tennessee Human Rights Act and pursuant to Tenn. Code Ann § 4-21-101 et seq. and the Americans with Disabilities Act Amendments Act, 42 U.S.C. § 12101 et seq.
- 19. The Plaintiff asserts from July 2011 through October 5, 2011, the Plaintiff was operating under a physical impairment that substantially limited one or more major life activities, which was apparent to and perceived by the Defendants.
- 20. Additionally, the Plaintiff informed the Defendant of her limitations and disabilities.
 - 21. At the time of her termination, the Plaintiff suffered from Crohn's disease.

- 22. At the time of her termination, Plaintiff qualified as an individual with a disability consistent with the Tennessee Disability Act, Tenn. Code Ann. § 8-50-103 and the Tennessee Human Rights Act and pursuant to Tenn. Code Ann § 4-21-101 et seq. and the Americans with Disabilities Act Amendments Act, 42 U.S.C. § 12101 et seq.
- 23. Plaintiff also contends that during her employment and until her termination, she suffered from substantial limitations of several major bodily functions including but not limited to functions of the autoimmune system and digestive system.
- 24. At the time of her termination, Plaintiff was not under any restrictions by her physician for her condition.
- 25. During her employment, management made negative comments about Plaintiff's health problems and her limitations.
- 26. At the time of her termination Plaintiff was able to perform all essential functions of her job with and/or without reasonable accommodation.
- 27. The Defendant perceived or regarded the Plaintiff's medical condition as a handicap, consistent with the Tennessee Disability Act, Tenn. Code Ann. § 8-50-103 and the Tennessee Human Rights Act and pursuant to Tenn. Code Ann § 4-21-101 et seq. and the Americans with Disabilities Act Amendments Act, 42 U.S.C. § 12101 et seq.
- 28. During this applicable time period, the Plaintiff 1) suffered from one or more physical impairment that substantially limited one or more of the Plaintiff's major life activities; 2) the Plaintiff was qualified and able to perform the required job despite the handicap or disability; and 3) the Defendant knowingly discriminated against the Plaintiff because of her disability.

- 29. The Defendant's termination of the Plaintiff constituted an adverse employment action.
 - 30. The Plaintiff avers the Defendant's reason for termination was illegal.
- Tennessee Disability Act, Tenn. Code Ann. § 8-50-103 and the Tennessee Human Rights Act and pursuant to Tenn. Code Ann. § 4-21-101 et seq. and the Americans with Disabilities Act Amendments Act, 42 U.S.C. § 12101 et seq.
- 32. The Defendant discriminated against the Plaintiff and treated her poorly from the time the Defendants knew of her disabling injuries until the date of her discharge.
- 33. At all relevant dates and times as forth herein, the Defendant is vicariously liable for the actions and inappropriate conduct of its employees, agents and/or representatives because: (a) the Defendant did not exercise reasonable care to promptly correct and prevent the handicap and disability discriminating behavior; (b) the Defendant did not properly supervise and train the Plaintiff's supervisors regarding appropriate behavior towards employees with injuries or disabilities; (c) the Defendant did not properly train the Plaintiff's supervisors regarding the Defendants' policies towards a workplace free of handicap and disability discrimination; (d) the Defendant did not have a viable and reasonable procedure and policy in effect to encourage and promote employees to report handicap and disability discrimination occurring within the Defendant's workplace; and (e) the Defendant did not have a viable and reasonable procedure and policy in effect to provide reasonable accommodation to its employees with disabilities.

- 34. The Plaintiff's managers and supervisors discriminated against Plaintiff as a result of her physical disability and/or their perception of her physical disability by terminating the Plaintiff, even though she was able to perform all her job duties. The management teams' actions show that the Defendant had not properly trained the managers and supervisors or provided proper instruction regarding the handling and processing of employees with disabilities, to prevent discrimination against the Plaintiff for her disability.
- 35. The Defendant's failure to engage in a bona-fide interactive process with the employee, and its decision to terminate the Plaintiff constitutes discrimination against the Plaintiff due to his disability in violation of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., and the Americans with Disabilities Amendments Act of 2008.
 - 36. At said relevant dates and times as set forth herein:
 - a) the Plaintiff was a qualified individual with a disability that substantially limited a major life activity and/or the employer treated and perceived the Plaintiff as if the Plaintiff's impairment substantially limited a major life activity;
 - b) the Plaintiff was able to perform the essential functions of her job with or without reasonable accommodation; and
 - c) the Plaintiff suffered a tangible employment action in being discharged or terminated by the employer as a result of her disability.

APPLICABLE TO ALL COUNTS

37. As a result of the Defendant's culpable acts or omissions as set forth herein, the Plaintiff was improperly retaliated against and terminated by the Defendant and is entitled to compensation for past, present and future wages and benefits, incidental

damages, compensation for emotional distress, humiliation, mental anguish embarrassment, pain and suffering and other nonpecuniary losses.

- 38. Plaintiff further submits that the Defendant has acted: (a) intentionally, and/or (b) maliciously, and/or (c) recklessly in terminating the Plaintiff and that the Plaintiff is entitled to an award of punitive damages.
- 38. Plaintiff has suffered direct pecuniary losses as a result of the Defendant's violations of the Tennessee Disability Act, Tenn. Code Ann. § 8-50-103 and the Tennessee Human Rights Act and pursuant to Tenn. Code Ann § 4-21-101 et seq. and the Americans with Disabilities Act Amendments Act, 42 U.S.C. § 12101 et seq. and common law.
- 39. Plaintiff will continue to suffer direct pecuniary losses as a result of the Defendant's culpable acts or omissions as set forth herein, the Defendant's violation of the Tennessee Disability Act, Tenn. Code Ann. § 8-50-103 and the Tennessee Human Rights Act and pursuant to Tenn. Code Ann § 4-21-101 et seq. and the Americans with Disabilities Act Amendments Act, 42 U.S.C. § 12101 et seq. and common law.
- 40. Plaintiff is entitled to compensation for incidental damages, attorney's fees, compensation for emotional distress, humiliation, mental anguish, embarrassment, pain and suffering and other nonpecuniary loses.

WHEREFORE PLAINTIFF PRAYS:

- a) that service of process issue to Defendant as set forth in;
- b) the Plaintiff be awarded compensatory damages of \$150,000 or as amount to be determined by the jury;

- c) the Plaintiff be awarded punitive damages of \$150,000 or an amount to be determined by the jury;
- d) that the Court award the Plaintiff attorney's fees and costs incurred in prosecuting this action and such discretionary costs as provided under Tennessee law;
- e) that the Court award the Plaintiff such other, further, general and different relief to which she may be entitled; and
 - f) that a jury of twelve (12) be empanelled to try this action.

Respectfully submitted,

Nina Parsley [BPR No. 238]8]
Michael Ponce & Associates, PLLC
1000 Jackson Road, Suite 225
Goodlettsville, TN 37072
(615) 851-1776
nina@poncelaw.com
Attorney for the Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing was served by first class U.S. Mail, postage prepaid, upon:

Christopher Cardwell, Esq.
Gullett, Sanford, Robinson & Martin, PLLC
150 Third Svenue, South
Suite 1700
Nashville, TN 37201

On the 14th day of December, 2012

Nina H. Parsley